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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 ELIOT SCOTT GRIZZLE,

13 Petitioner,

14 v.

15 ROBERT HOREL,

16 Respondent.

Case No. C 07-4845 SI

**EXHIBITS A-O TO STATEMENT OF
FACTS AND MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF PETITION FOR WRIT
OF HABEAS CORPUS**

VOLUME 2

18 Exhibit F: Trial testimony of Healy

19 Exhibit G: Prosecution's closing arguments

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF DEL NORTE

---oOo---

THE PEOPLE OF THE STATE OF CALIFORNIA,)	
)	
Plaintiff,)	
vs.)	No. 97-268-X
)	
ELLIOTT SCOTT GRIZZLE, (H-10106),)	
)	
Defendant.)	
_____)	

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

ON TRIAL BY JURY

Had in the Superior Court of the State of California
in and for the County of Del Norte, beginning at 9:30
O'Clock, A.M., Monday, February 8; Tuesday, February 9;
Wednesday, February 10; Thursday, February 11; Tuesday,
February 16; Wednesday, February 17; Thursday, February 18;
and Friday, February 19, 1999. Before the:

Honorable ROBERT W. WEIR, Judge thereof

---oOo---

Reported by: Lorraine Kaye O'Hara, CSR No. 5637, RPR

VOL. V
COPY

APPEARANCES

For the People:

MICHAEL D. RIESE
Interim District Attorney
County of Del Norte
County Courthouse
Crescent City, California 95531
By: JAMES FALLMAN, Sr. Dep. D.A.

For the Defendant:

RUSSELL J. CLANTON
Attorney at Law
725 H Street, Suite D
Arcata, California 95521

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1 CRESCENT CITY, CALIFORNIA, TUESDAY, FEB. 16, 1999, 9:02 A.M.

2 ---oOo---

3 (The following proceedings
4 were held in the presence of
the jury.)

5 THE COURT: Okay, for the record we have all members
6 of the jury present, both attorneys and the defendant.

7 You may call your next witness.

8 MR. FALLMAN: Thank you, your Honor. Mr. Brian
9 Healy.

10 (Brief pause while Inmate Witness Healy was brought in.)

11 THE CLERK: Would you raise your right hand, please?

12 BRIAN HEALY,

13 called as a witness by the People, after having been duly
14 sworn to tell the truth, the whole truth and nothing but the
15 truth, was examined and testified as follows:

16 THE CLERK: Just have a seat and state your name,
17 please.

18 THE WITNESS: Brian Devlin Healy.

19 THE CLERK: Thank you.

20 THE COURT: You may examine.

21 MR. FALLMAN: Thank you.

22 DIRECT EXAMINATION

23 Q BY MR. FALLMAN: Good morning, Mr. Healy.

24 A Good morning.

25 Q Mr. Healy, would you tell the jury all the felonies
26 that you've been convicted of?

27 A Attempted murder on a cop, manslaughter, weapon
28 possessions, assault with a weapons on prisoners.

1 Q Okay. And --

2 (Mr. Fallman conferring briefly with the clerk.)

3 MR. FALLMAN: May I approach the witness, your Honor?
4 Thank you.

5 Q Sir, do -- are you able to recognize who that is?

6 A Yeah, that's -- looks like Aaron Marsh.

7 Q Thank you. Referring to No. -- or letter GG, your
8 Honor.

9 Mr. Healy, is there such a thing as the Aryan
10 Brotherhood?

11 A Yes, there is.

12 Q And have you ever been a member of that gang?

13 A Yes, I was.

14 Q What -- from what years were you in the Aryan
15 Brotherhood?

16 A Well, I've been associated with the Aryan Brotherhood
17 since about '85 in Old Folsom and became a member in '93.

18 Q Okay, and at what prisons have you been in over the
19 various years you've been in prison?

20 A Folsom, Chino, Old Folsom, New Folsom, Corcoran,
21 Pelican Bay, Vacaville, Tracy. That's it.

22 Q Okay. And out of the prisons that you've been in,
23 which ones have you done activities related to Aryan
24 Brother -- to the Aryan Brotherhood?

25 A Pretty much all of them.

26 Q All right. And when you first went into the prison
27 system, were you affiliated with the Aryan Brotherhood at
28 that point in time?

1 A Not when I first went in, no. I mean, I had --
2 inspired to go -- become A.B. but I was never involved at
3 that time. I was too young.

4 Q All right, had you been in any street gangs as a
5 youngster before you went into the prison system?

6 A Yes.

7 Q And what was the name of the street gang?

8 A It's -- Bell Gardens White Boys. It's in the city in
9 Los Angeles.

10 Q Okay.

11 A And it's a little town out of there.

12 Q You used the word "inspired" a minute ago. What, if
13 anything, inspired you about the A.B. once you got into the
14 prison system?

15 MR. CLANTON: I'm going to object on relevance, your
16 Honor.

17 THE COURT: Overruled. You may answer.

18 THE WITNESS: What inspired me was just -- their
19 sophistication, their ability to run a prison, their racial
20 loyalties towards the white race, their viciousness, how
21 they took no disrespect, all these -- that type of relate --
22 reputation I courted when I was in Y.T.S. And when I got to
23 prison it was like I identified with those guys and I was
24 very impressionable, I was young, and so I followed suit.

25 Q BY MR. FALLMAN: Okay. Do you know the gentleman
26 down at the far end of the table?

27 A Yes, I do.

28 Q Who is he?

1 A Scott Grizzle, also known as Rascal A.B. member.

2 Q He is an A.B. member?

3 A Yes, he is.

4 Q How long have you known Rascal?

5 A I believe I met him in '94 in Pelican Bay during the
6 SHU in the law library, '94, '95.

7 Q Okay, do you know --

8 (Mr. Fallman conferring briefly with the clerk.)

9 Q BY MR. FALLMAN: Do you know the person in "44-O"?

10 A Yes, looks like Gary Littrell.

11 Q Is he affiliated with any prison gangs?

12 A He's a member of the Aryan Brotherhood as well.

13 Q Okay. Do you know how Rascal got into the Aryan
14 Brotherhood?

15 MR. CLANTON: I would object. Speculation, your
16 Honor. Lack of foundation.

17 THE COURT: Sustained. You'll have to indicate more
18 clearly how he would know and whether it's through some
19 admissible source.

20 Q BY MR. FALLMAN: Okay. Is there a procedure from
21 being a member of the Aryan Brotherhood that you're aware of
22 that -- actually, let -- I'll just approach it from a
23 different angle.

24 Let's go back in time when you're back originally
25 wanting to get into the Aryan Brotherhood itself. What --
26 what -- how did that -- how did it come about that you
27 became somewhat connected with these guys before you got in?

28 MR. CLANTON: I'm going to object. Relevance, your

1 Honor.

2 THE COURT: Overruled.

3 THE WITNESS: Answer?

4 THE COURT: Yes.

5 THE WITNESS: Well, basically there's a process that
6 you got to go through when you want to become a member in
7 the Aryan Brotherhood. The first thing is one member needs
8 to sponsor you, raise his hand, say that you're a good white
9 dude and he likes you and -- when that person says that,
10 then he'll get someone else, another brother, to raise his
11 hand for you because you need to have two hands raised for
12 you before you can even be accepted in the Aryan
13 Brotherhood.

14 Once you -- once all the members on the Committee,
15 which is the governing body of the Aryan Brotherhood, once
16 they know that you're up for the tip then you got to wait
17 two years before you actually become a member. Once -- at
18 the end of the that two-year period, if no brothers have
19 come forward and objected to your membership then you become
20 a member. If a brother comes forward and objects to your
21 membership you're kind of placed to the side and you won't
22 ever get in until that issue is resolved and until that
23 brother feels comfortable with you, and that's basically the
24 process.

25 Q What does the word "tip" mean for the jury?

26 A Just an -- just an expression, means like the gang.

27 Q Okay.

28 A But that's not exclusive with just the Aryan

1 Brotherhood. It can be anybody and just be part of a gang
2 in prison and they'll use that word.

3 Q So if somebody said that somebody else were "tipped
4 up," that wouldn't necessarily mean Aryan Brotherhood gang,
5 just any gang?

6 A No, any gang. Just tipped up, and it usually follows
7 the gang you're tipped up with. If it's an authority
8 speaking on it, if it's the prison speaking on it, he'll
9 probably go, "Yeah, that dude's tipped," and he's going to
10 go, if that dude is white and he's tipped, "He's A.B."

11 Q Okay. Do any other street gangs feed into the A.B.
12 normally that you're aware of?

13 A Any other what?

14 Q Street -- street gangs or lower prison gangs feed
15 into the A.B.?

16 A Oh, yeah, they got -- the Skinheads do and so do the
17 Nazi Lowriders.

18 Q All right. Now, who -- if the procedure is people
19 raise their hand for you, who raised their hand for you so
20 that you could get in?

21 A Eddie Burnett and Mark Glass. Both A.B. members.

22 Q All right. And what prison were you at when this
23 happened?

24 A Eddie raised his hand for me in Chino in 1990 and --
25 Chino Prison, and Buzz did it in '91 in Pelican Bay when I
26 was up there.

27 Q Okay. Now, these guys, Buzz, is that Mr. Glass?

28 / / /

1 A Yeah. Excuse me. Yeah, that's Mr. Glass. It's
2 Buzz. Call him Buzzard.

3 Q Oh, Buzzard? (Nodding.) Okay, and so I take it that
4 if these two men from what you said raised their hands in
5 different prisons, that somehow -- the business of whether
6 new members can get in can be transacted among different
7 prisons at the same time?

8 A Yeah.

9 Q Or over a period time?

10 A Yeah, there's lines of communication that constantly
11 go on.

12 Q What kinds of criminal activity does the Aryan
13 Brotherhood traffic in or move in?

14 A Right now it's just basically murder. That's all
15 they're really focused on right now, just killing each other
16 in prison. Historically they was involved in protection,
17 extortion, drug trafficking, things of that nature.

18 Q How long's the Aryan Brotherhood existed?

19 A Since the sixties.

20 Q Okay, is -- it exists right now?

21 A Yeah, absolutely.

22 Q Would you consider it an ongoing conspir -- criminal
23 conspiracy?

24 A Yes, sir.

25 Q All right. Does it have any effects out on the
26 street or is it just powerful in the prison?

27 A No, it has power on the streets as well.

28 Q Okay. How does the -- how is the Aryan Brotherhood

1 run? Who's in charge of it?

2 MR. CLANTON: I'm going to object as speculation,
3 lack of foundation, your Honor.

4 THE COURT: Overruled.

5 THE WITNESS: Answer?

6 THE COURT: Yes.

7 THE WITNESS: Currently -- I suppose you mean Pelican
8 Bay, right?

9 Q BY MR. FALLMAN: Well, the Aryan Brotherhood in
10 California.

11 A Okay. Well, basically the power base in California
12 for the Aryan Brotherhood is Pelican Bay Security Housing
13 Unit. In that facility, you have six members that are
14 basically the top dogs in the Aryan Brotherhood.

15 Q Who are they?

16 A Robert Griffin, who is also known as Blinky; Richard
17 Terflinger, everybody calls Ricky T or Rick. John Stinson.
18 New York, who's Bobby Crane. James Pendleton. Everybody
19 calls him J.P., and Dave Chance. Basically calls him Dave.
20 Those guys are considered the top dogs. Everybody -- the
21 Council, the Committee, different ways people address them
22 but that's basically what they are. They are the governing
23 body, the intelligence of the Aryan Brotherhood.

24 Q When somebody -- first of all, is the Aryan
25 Brotherhood also out of state? I know we're referring to
26 mostly California here but do you happen to know whether the
27 Aryan Brotherhood extends into other parts of the country?

28 MR. CLANTON: I'm going to object, your Honor, on

1 speculation, lack of foundation, relevance, 352.

2 THE COURT: Overruled. You may answer.

3 THE WITNESS: The Aryan Brotherhood started in
4 California in the sixties. Has generated out into other
5 states. It's also in the federal system and it's also in
6 the state prisons in other states besides California. But
7 California was the breeding ground that gave the birth to
8 the Aryan Brotherhood in San Quentin and Folsom in the
9 sixties.

10 Q BY MR. FALLMAN: The Council of six that you've
11 referred to, Mr. Stinson, Mr. Chance, Mr. Terflinger and the
12 others, how many years if there is such a requirement do
13 they have to be in prison before they can make it to the
14 Council after they become a member or just -- how many years
15 do you have to be in prison?

16 MR. CLANTON: I would object again for the same
17 reasons I've been objecting, your Honor. I think this line
18 of questioning is -- this entire pattern of questioning has
19 nothing to do with these proceedings. It's prejudicial;
20 it's not probative; it's not relevant.

21 THE COURT: Objection's overruled. You may answer.

22 THE WITNESS: What was the question again?

23 Q BY MR. FALLMAN: Yes. How many years does it take
24 for one of those six men to be -- do they have to be in
25 prison a minimum period before they can even try to get on
26 the Council?

27 A Yes, they do. It's usually fifteen years. Every one
28 of them men that's on the Council have fifteen years in the

1 penitentiary. Or not the penitentiary, the state prison
2 and -- at a minimum. Some of them got thirty years in. And
3 that's it.

4 Q Okay. Now --

5 A Fifteen years.

6 Q -- you said that there was a two-year probationary
7 period when a guy wants to get into the Aryan Brotherhood
8 while -- while they're looking at him, I think you said; is
9 that right?

10 A Yeah, it's a two-year -- it's a probation period.
11 School him, bring him along, groom him for the spot type of
12 thing.

13 Q Okay, tell the jury about the schooling that you go
14 through during that two-year probationary period and the
15 grooming that a person goes through before the Council
16 decides whether they're going to accept you.

17 A You talking about --

18 MR. CLANTON: Again, your Honor, I'm going to object
19 for the same reasons I've been objecting. This has nothing
20 to do with these proceedings, this entire line of
21 questioning, for all of the reasons I've stated to this
22 court many times.

23 THE COURT: Overruled. You may answer.

24 THE WITNESS: You mean modern? Modern times?

25 Q BY MR. FALLMAN: Yes.

26 A Basically in Pelican Bay what it would be is once two
27 brothers would raise their hand for you, schooling would be
28 like you live with a brother, usually the one that's

1 sponsoring you. You'll move around sometimes from one
2 brother to the next. That way you can get an idea how
3 different perspectives for different brothers go inside the
4 gang. You're schooled on the history of the gang, how to
5 make knives, how to make handcuff keys, how to smuggle them,
6 who our enemies are, what we consider as -- serious
7 disrespect that would cause for murder. What our
8 philosophies are and violence and stuff of that nature and
9 that's all the schooling. Usually lasts for two years. I
10 mean, it's an ongoing process. You always learn a little
11 each time you go. Even as the years go by you still learn a
12 little.

13 Q Are there any philosophies you're encouraged to read
14 for any reason?

15 MR. CLANTON: Again, your Honor, the relevance and
16 speculation and 352 objections.

17 THE COURT: Overruled. You may answer.

18 THE WITNESS: Just booked -- I mean, no one sits you
19 down and tells you, "Look, you got to read those books,"
20 but, you know, it's books that if you have an interest in
21 the Aryan Brotherhood and the way their minds click you
22 would want to read these books, and it's like Friedrich
23 Nietzsche, Machiavelli, stuff like that. That's the ones
24 that I've read.

25 Q BY MR. FALLMAN: Okay, speaking of Nietzsche, which
26 particular works of Nietzsche's have you read?

27 A Oh, I've read a few. It's been awhile since I've
28 read that stuff but I've read Beyond Good and Evil, Thus

1 Spake Zarathrusta, I think Wagner versus Wagner, The Reader.
2 I think there's a couple more but it's been awhile since I
3 read any of that stuff.

4 Q Okay. Do you happen to have any Nazi tattoos on you?

5 A Yes, I do.

6 Q Tell the jury what you got.

7 A Okay, I got a swastika, lightning bolts which is the
8 S.S., White Power, Nazis, and that's it.

9 Q Do you have an eagle, a German eagle?

10 A Oh, yeah, I got a war bird on the back of my neck; I
11 got one on my leg. Yeah.

12 Q Okay.

13 A I got bolts on my neck.

14 Q And are you from -- from -- from -- why did you --
15 why did you begin wearing those tattoos at some point in
16 time?

17 A At one point in my life I ascribed to that
18 principle -- that -- that followed the philosophy of racial
19 loyalty, racial hatred, white supremacy. That was my thing.

20 Q What, if any, of the Nietzsche books teach anything
21 to do with racial supremacy from a Nazi perspective?

22 MR. CLANTON: I'm going to object, your Honor.
23 Again, relevance.

24 THE COURT: Sustained.

25 Q BY MR. FALLMAN: Would it be likely to find books by
26 Nietzsche in Aryan Brotherhood cells?

27 A Well, I imagine so but I would -- I don't think it's
28 exclusive Aryan Brotherhood. You probably find them in

1 other people's cell but you would also find them in Aryan
2 Brotherhood, probably quite a few of them.

3 Q All right. Now, you said that Eddie Burnett and Mr.
4 Glass raised their hands for you. Is that correct?

5 A That's correct.

6 Q Where were you at the time -- apparently one was in
7 1990 and one was in 1991?

8 A Yes.

9 MR. FALLMAN: Were -- were you around both of those
10 at different times or -- or what's -- how did that work?

11 MR. CLANTON: I'm going to object again. Relevance
12 to these proceedings, your Honor.

13 THE COURT: Overruled. You may answer.

14 THE WITNESS: I've been down since 1990. When I got
15 to Chino, because I'm from L.A., Eddie Burnett was there at
16 that time. Me and him got involved in some stuff. I knew
17 Eddie prior to that and in Old Folsom. I left there, went
18 up to Pelican Bay, got up there, was with Mark Glass who's
19 Buzzard. We got to talking at that time and I told him
20 about what Eddie had -- told me that he was going to put me
21 up for the tip and then he said he would sponsor me as well
22 and that was it.

23 Q BY MR. FALLMAN: What, if any, particularized
24 training did Mr. Burnett give you that you may have utilized
25 later years when you got to Pelican Bay?

26 A How to beat a murder, get it from a first degree
27 murder to a manslaughter.

28 Q Were you charged recently with first degree murder?

1 A Yes, I was.

2 Q And who prosecuted you?

3 A You did.

4 Q Okay. And did you beat that first degree murder down
5 to a manslaughter?

6 A Yes, I did.

7 Q The jury found you guilty of manslaughter?

8 A Yes, they found me -- the first and second was denied
9 and they found me guilty of manslaughter.

10 Q Did you actually murder that man with premeditation,
11 malice aforethought?

12 A Yes, I did.

13 Q And what, if anything, did Mr. Burnett's training
14 have to do with your murder of that victim?

15 A He taught me how to get it from first degree murder
16 to a manslaughter.

17 Q So whatever Burnett taught you, you were successful
18 with his training?

19 A Yeah.

20 MR. CLANTON: Your Honor, I'm going to object at this
21 time and ask that we approach.

22 (The following proceedings
23 were held at bench outside
the presence of the jury.)

24 MR. CLANTON: Your Honor, this is precisely why we
25 objected from the very beginning of this case to being kept
26 from the two hundred hours of taped statements given by Mr.
27 Healy that have kept us from being able to do any effective
28 cross-examination under these circumstances. I cannot -- I

1 cannot cross-examine this individual whatsoever in this
2 entire area because we've been kept from those tapes.

3 I would ask that there be some sanction imposed to
4 the District Attorney in this particular area. I would ask
5 that he be kept out of this entire area. We know that the
6 tapes exist. We know that he's given hours and hours of
7 testimony in -- in this area as well as others that I'm
8 aware of. Mr. Fallman's going to go with this particular
9 witness but we are absolutely bound, our hands are bound. I
10 cannot cross-examine this individual. It's very prejudicial
11 testimony and yet I'm defenseless because we've been kept
12 from all of the information which he is testifying to right
13 now.

14 A lot of this that's going on right now is
15 first-impression testimony. This did not -- this entire
16 scenario that is unfolding, Mr. Fallman is revealing to this
17 jury at this point, was not part of the Littrell trial, it
18 is part of the two hundred hours of -- videotapes and
19 audiotapes that we've requested from the very first day of
20 this case. And I don't know how much further we're going to
21 go into this.

22 It's extremely prejudicial. I object very vigorously
23 to that and I think appropriate sanctions should be imposed.

24 MR. FALLMAN: Your Honor, I haven't seen the tape
25 either, and the -- the only -- the offer of proof would be I
26 believe he's going to say that he learned from this person
27 to strangle because if you stab there's no way you can
28 convince a jury that it was self-defense, but where two

1 violent white guys are voluntarily celled, in the same cell
2 and nobody sees how it starts that a jury is very likely to
3 buy no more than a voluntary manslaughter heat of passion
4 even if it's -- and I -- that's all I think he's going to
5 say that's what he learned from Burnett. But it -- but it
6 goes back as part of his training to something he learned in
7 1990 in Chino to what he actually finally did when they told
8 him to in Pelican Bay in 1997. Or 1996, whenever he did it,
9 when he killed Ruffo.

10 MR. CLANTON: Well, I understand what he's saying but
11 the bottom line is I just have to sit here and play
12 rope-a-dope because I cannot cross-examine this individual.
13 We have demanded these tapes, we have not received these
14 tapes and he's going on from all kinds of areas he knows I
15 have absolutely no way of cross-examining this individual on
16 because he knows I haven't had access to the tapes. It's
17 wrong, it's very prejudicial, and I'd just ask that
18 sanctions be imposed, number one being that he cease and
19 desist this entire line of questioning, get on with what he
20 knows about this particular case.

21 THE COURT: Well, I'm going to overrule the
22 objection. We'll proceed.

23 (The proceedings then
24 resumed in open court in the
presence of the jury.)

25 THE COURT: The objection's overruled.

26 MR. FALLMAN: Thank you, your Honor.

27 Q Please tell us what method Burnett taught you to use
28 to try to turn a murder into a manslaughter with a jury.

1 A Not to use a weapon in the cell. If you can use your
2 hands, because you can beat it to a manslaughter.

3 Q How?

4 A And at that time there was no three strikes so if you
5 got manslaughter you was usually looking at five years,
6 seven years, something rather than twenty-five to life or
7 seventeen to life.

8 Q Okay. How did you kill your victim at Pelican Bay?

9 A I strangled him with my hands.

10 Q So you -- did not use a weapon.

11 A No, I did not.

12 Q Okay. After you learned apparently from your own
13 success in getting your murder down to a manslaughter, did
14 you do any teaching of your own the way Burnett had taught
15 you?

16 A Yes, I sent some -- a -- different principles on
17 self-defense, case law to other brothers. I explained how
18 easy it was to do it, how -- you know, deception was key.
19 You know, the brother thinks you're his friend, creep up on
20 him and you can get him. It's not a problem.

21 Q Okay. From what you've said earlier, to train,
22 apparently, Aryan brothers tried to get younger Aryan
23 brothers to cell up with them voluntarily; is that correct?

24 A Yes, that's correct.

25 Q Do Aryan Brotherhood members normally cell up with
26 people who aren't Aryan Brotherhood?

27 A Oh, yeah, they do that as well.

28 Q Okay. Who was the person you killed at Pelican Bay?

1 A Art Ruffo.

2 Q At some point in time did you drop out of the Aryan
3 Brotherhood?

4 A Yes, I did. I'm no longer a member in the Aryan
5 Brotherhood.

6 Q And when -- when was it that you decided to drop out?

7 A Ninety-seven. End of '97, I believe.

8 Q Okay, was that before or after you were convicted of
9 manslaughter of Ruffo?

10 A After.

11 Q Okay. By the way, was Ruffo a member of the Aryan
12 Brotherhood?

13 A Yeah, he was a high-ranking member. He wasn't on the
14 Council or anything but he'd been around since '75, San
15 Quentin and Folsom, had a serious reputation of being pretty
16 ruthless and he was a high-ranking member in the Aryan
17 Brotherhood. Had a lot of clout.

18 Q Was -- was Aaron Marsh a member?

19 A Yes, Aaron Marsh was a member. He was relatively
20 new, though, but he was a member. He'd been around awhile,
21 though, but he just recently made membership.

22 Q Okay, what is it that made you decide to drop out
23 after you'd actually killed a fellow member?

24 A I was told to kill Ruffo because Ruffo had told the
25 cops, the cops being the guards in prison, that he couldn't
26 be around Griffin on the yard. Which in the penitentiary or
27 in the prison system that's referred to as being a rat or a
28 coward or something. To say that you have -- you have an

1 enemy, you don't want to be on the yard with him.

2 Well, after I killed him, I was able to get his
3 C-file and went all the way through it, I asked other
4 brothers questions regarding if they actually had knowledge
5 of him being a rat, and basically all the stories were
6 conflicting. Nobody knew exactly why he was killed. When I
7 went deeper I was -- kind of challenged, like I was
8 questioning their word.

9 So basically I told -- I was told he was a rat, I
10 killed him, but it wasn't true. Turned out to be false and
11 that's why I'm doing what I done now.

12 Q Okay. The Griffin that he -- the story was that
13 he -- that he said he couldn't be with on the yard, that's
14 Blinky Griffin on the Council?

15 A Yes, that's top dog in the Aryan Brotherhood, yeah.

16 Q All right. How many years trying to work your --
17 yourself up and learning the principles and work yourself
18 into the Aryan Brotherhood did you spend before you found
19 out you'd been lied to?

20 A Since 1985 when I really started getting involved
21 with the Aryan Brotherhood I had a phase there where I
22 backed up a little bit for other reasons. Because that was
23 a difference in philosophy. They was doing a lot of drugs,
24 it was different brothers so I backed up a little bit
25 because that's not ever been my thing, but then I started
26 getting back into it really deep in about '88.

27 Q Okay.

28 A So ever since '85 I've pretty much been involved in

1 it, but even at that time when I backed up I continued to,
2 you know, be a good wood -- what you want to call it? Good
3 white dude.

4 Q When you say the word "wood," what's the whole word
5 for --

6 A It's short for "peckerwood," which means, you know,
7 you live by a certain code within the white group. Just an
8 average white guy is not a wood, but a wood is not A.B.
9 neither. Anybody can be a peckerwood.

10 Q During the period that you backed off trying to
11 decide whether you really wanted to go forward into the
12 A.B., was -- was there something going on that you had
13 observed in the A.B., a power structure that made you back
14 off?

15 A Yes, their --

16 MR. CLANTON: I'm going to object to this entire
17 pattern of questioning, has nothing to do with these
18 proceedings. It's 352; it's not relevant; largely
19 speculation.

20 THE COURT: Overruled. You may answer.

21 THE WITNESS: Okay. Well, yeah, you know in -- in
22 '86, '87, the Aryan Brotherhood kind of had a split and that
23 split was where they took some of the high-ranking members
24 out of Old Folsom and sent them to Tehachapi and left some
25 of the other brothers in Old Folsom and that's where I was
26 at at that time. When these brothers left, which was
27 Blinky, Eddie Burnett, Danny Troxill and that group right
28 there, when they left Blue Wendell Norris, he's there, Bobby

1 Moore, Junior Schneider, Spanky, who's Curt Smith, all these
2 guys were there and they were junkies. They was going
3 around taking all these white dudes' dope and then they was
4 stabbing them after they would get their third which is
5 something that the A.B. usually does. They make you pay a
6 third of your dope. Whatever you bring in they get a third
7 of your dope. They would get their third then they would go
8 back for more and they was just using it instead of selling
9 it and it was just a situation that I didn't want to be
10 involved in. Because, like I said, drugs ain't never been
11 my thing so I backed up at that point and paroled.

12 Q The -- my question then would be during this period
13 that there was a apparently two factions at the top of the
14 A.B., was there a period -- would an inmate be correct if
15 he'd previously testified that he -- that he didn't think
16 that he was eligible to get in for a period of time? Was
17 there a time when you couldn't get into the Aryan
18 Brotherhood temporarily?

19 A Yes, at that time right there that I was just talking
20 about, most of them brothers that I just told you was on the
21 Council, they kind of backed up where they wasn't letting
22 nobody in the Aryan Brotherhood, then you have Blue who was
23 letting everybody in and that was the way of getting back at
24 the guys in Tehachapi. So basically the doors was closed
25 from about '87 all the way to about '93. Nobody was getting
26 membership.

27 Q (Nodding.) Okay.

28 A Until that issue got resolved.

1 Q (Nodding.) When you decided that you were -- well,
2 first of all, what -- the jury doesn't know what a C-file
3 is. You said you got it, you got ahold of Ruffo's C-file.
4 Tell the jury what a C-file is.

5 A A C-file is your central file. It basically contains
6 your entire history while you've been in prison, all your
7 general chronos that officers will write, all your behavior
8 reports, medical reports, gang affiliations, enemy lists,
9 prisons you've been in, court transports, things of that
10 nature. It's basically your entire history while you've
11 been in C.D.C.

12 Q Okay. When -- when you decided to drop out tell the
13 jury what you did.

14 A Well, first I contacted some officers. In the
15 system. Pelican Bay. Letting them know that I was ready to
16 go and disassociate myself from the Aryan Brotherhood. I
17 didn't get the response I was looking for, which is I wanted
18 to get out of there quick because I was a little paranoid
19 that I'd already dropped one kite telling them I needed to
20 get out of there and I was still in an active pod. When no
21 one responded to me then I wrote the District Attorney and
22 told them that I was ready to disassociate myself from the
23 Aryan Brotherhood and I had some information on this murder
24 right here. That I'd been involved in but I needed
25 immunity.

26 Q Okay.

27 A Before I would talk about it.

28 Q So did you ask for immunity?

1 A Yes, I did.

2 Q Were you granted immunity?

3 A Yes, I was.

4 Q Okay. And what else, if anything, were you offered
5 or did you ask for?

6 A I really -- didn't ask for nothing. On your request,
7 you'd -- I'd made a statement on a videotape that I would
8 hope the judge would consider what I'm doing now in my
9 sentencing.

10 Q Okay.

11 A And that was basically it, but time and sentencing
12 ain't never been a motivating factor for me.

13 Q Okay. What symbols, if any, are the symbols of the
14 Aryan Brotherhood?

15 A The shamrock, three-leaf shamrock.

16 Q Okay. And --

17 A Or the letters "A.B." obviously.

18 (Mr. Fallman conferring briefly with the clerk.)

19 MR. FALLMAN: A hole in my pocket. I do.

20 Q Sir, showing you No. 32, does that appear to be
21 anything you're familiar with?

22 A Yeah, it's a shamrock with Irish scroll on the
23 outside of it on a card.

24 Q And what about No. 36?

25 A That's -- depicts a crude shamrock with the letters
26 "A.B."

27 Q Are those the kind of things that would be consistent
28 with the symbols of the Aryan Brotherhood?

1 A Yes, they're very consistent with the Aryan
2 Brotherhood, but again, you -- there's a lot of cells you
3 can go in that you wouldn't find that, brothers. You
4 wouldn't find nothing like that in my cell. I wasn't so
5 foolish to put stuff like that in my cell.

6 Q Why?

7 A Because why tell on yourself? I mean, some brothers
8 do it but -- you go to Rick Terflinger's cell you ain't
9 going to find nothing like that. You go to Blinky's cell
10 you're not going to find nothing like that. They're not as
11 foolish as that, but you still have brothers that do that.

12 Q Okay. What -- does the word "rock" mean anything?

13 A Yeah, it's -- short for "shamrock."

14 Q When -- when -- at -- how does one get one's
15 shamrock? Is that the culmination of some process?

16 A Yeah, the thing I explained to you earlier, you know,
17 the sponsoring, going through it, all the schooling and
18 stuff of that nature. But see, now -- that's why I asked
19 you earlier if -- you was talking about modern times or
20 before. If you're talking in the eighties, seventies and
21 the sixties, it was totally different, whereas -- why you
22 kill before you became a member in the Aryan Brotherhood or
23 viciously stabbed someone before you became a member, that
24 was part of making your bones. But see, that's no longer
25 existing.

26 Q So you can get in now without making your bones by
27 blood?

28 A Well, no, you eventually have to but -- it's not a

1 prerequisite to your membership prior to that. But you will
2 eventually do it afterwards.

3 Q Okay, tell the jury what "make your bones" means.

4 A "Make your bones" means stab somebody, kill somebody,
5 show that you're -- your ability and your effectiveness to
6 kill and show your loyalties to the Aryan Brotherhood and
7 that cause.

8 Q Is -- is the Aryan Brotherhood way always to kill
9 or -- or is it normally to kill or is it sometimes just to
10 stab or what is it?

11 MR. CLANTON: I'm going to object again.
12 Speculation, your Honor.

13 THE COURT: Overruled.

14 MR. CLANTON: Vague.

15 THE COURT: You may answer.

16 THE WITNESS: The Aryan Brotherhood has not always
17 been as shortsighted as they are right now. And what I mean
18 by shortsighted is right now there's no level of diplomacy
19 within the Aryan Brotherhood. If you do one little thing
20 wrong they're going to kill you. That's the bottom line.
21 If you're a white dude and you did something that they
22 perceive was some type of code violation there's no sitting
23 down going over it, "Check out, brother." It's "okay, he
24 did this stuff." It's "okay, he did that. Cool. Let's
25 kill him." That's basically where the Aryan Brotherhood is
26 at right now.

27 It's not like it used to be where -- when I was being
28 schooled, in Old Folsom and all these brothers that I used

1 to run around with which is a lot of the older ones. You
2 know, it was like murder was the last thing you wanted to
3 do. That should be the final solution. You should try
4 every avenue of diplomacy first. Murder's bad for business.

5 But see, that's no longer existent because, see, the
6 Aryan Brotherhood doesn't really have a business in Pelican
7 Bay because they're rotting away and they're killing
8 themselves.

9 Q When they're not locking down -- I take it "rotting
10 away" is locked down in SHU 23 hours a day?

11 A They're locked down in SHU. The old timers, on their
12 convictions, they have indeterminate SHU programs which
13 means you'll never be released from the SHU security housing
14 unless you do what I'm doing now which is debriefing so
15 they're pretty much at the end of their rope. And now that
16 I've been testifying and -- given up all the conspiracies,
17 they're totally isolated now. The system's starting to
18 separate them and see what they're trying to do and keeping
19 them apart and it's slowing things down a little bit.

20 Q You referred earlier to a system where -- one faction
21 of the Aryan Brotherhood used to take one-third of their
22 members' dope or something; is that right?

23 A Well, no, not --

24 MR. CLANTON: I'm going to object, your Honor.

25 THE WITNESS: Excuse me.

26 MR. CLANTON: Relevance at this point.

27 THE COURT: Overruled. You may answer.

28 Q BY MR. FALLMAN: My question would be back before

1 they were so tightly locked down in SHU, you said they don't
2 have a business now. Was their business dope back in
3 another prison?

4 A Well, they have a business. It's just not as
5 lucrative now and it's not as widespread. But back then
6 basically what it was, they didn't -- you never had -- a
7 member never had to pay a third. If I was getting dope and
8 I'm a member and I'm getting dope at the cell, all I need to
9 do is just "that's my dope." I would take care of my
10 brothers if I wanted to, whoever I wanted to look out for.

11 It would be the white guys, just your normal white
12 dude that was catching dope in the visiting. When he would
13 come back somebody would approach him on -- at his cell, see
14 what he got, tell him, "A third's mine." He could not sell
15 dope for cash in the prison. What he would have to do would
16 be he gives his third to the A.B. member in that block and
17 then he'll have to give it to nobody else, just one time,
18 cuts a third off of whatever he got. He can sell his dope
19 for canteen, he can sell his dope for things of that nature,
20 but he cannot sell it for cash because the cash in the
21 prison is what the A.B. wanted.

22 MR. CLANTON: Your Honor, I'm going to object and ask
23 that we approach.

24 (The following proceedings
25 were held at bench outside
the presence of the jury.)

26 MR. CLANTON: Your Honor, I -- I have to object at
27 this time. We're -- we're so far afield of the issues in
28 this particular case that it's turned into a nostalgia trip

1 for Mr. Healy here about his Perils of Pauline and his Aryan
2 Brotherhood career. I don't understand what -- allowing
3 this -- this witness to go off on all -- the nostalgic
4 tangents he can about the Aryan Brotherhood doesn't have
5 anything do with whether Mr. Grizzle put pills in a bag of
6 pruno for Mr. Marsh. We've been going at this for almost an
7 hour now and we haven't even had one question related to the
8 issues here.

9 Again, as -- I won't go into the lengthy objection I
10 made earlier about the 1054 sanctions I asked for. I just
11 think we're going on to the same area. I don't even know if
12 I could cross-examine him here, whether it's even on those
13 tapes that I mentioned earlier.

14 In any event, basically this nostalgia trip I think
15 has gone far enough and my objection is it's just the
16 heaping of prejudicial material out there on Mr. Grizzle,
17 absolutely not probative in any regard to the issues of this
18 case, and it's gone, in my opinion, way too far and I would
19 ask that the Court rein in Mr. Fallman and start focusing on
20 the issues of the case. It's not relevant and for all those
21 objections I've gone through, and I would ask so that I
22 don't have to continue the objection before the Court if the
23 Court allows Mr. Fallman to go forward that the Court note
24 my objection as a continuing objection to to all the aspects
25 of the questioning process.

26 THE COURT: All right, the objection is overruled but
27 will be deemed that you have a standing objection to -- to
28 mention or discussion of the Aryan Brotherhood.

1 MR. CLANTON: Okay, that's fine. .

2 THE COURT: Okay.

3 MR. CLANTON: Thank you.

4 (The proceedings then
5 resumed in open court in the
6 presence of the jury.)

6 MR. FALLMAN: Thank you, your Honor.

7 Q Mr. Healy, do you have a nickname in the prison
8 system?

9 A Yes, I do.

10 Q And what is that?

11 A Deadeye.

12 Q And would you tell the jury why that is?

13 A Because I have a -- my left eye's gone. I have a
14 glass eye in my left eye.

15 Q Okay. Do you, without mentioning anything except
16 first names, have any children?

17 A Yes.

18 Q And how many?

19 A One.

20 Q Male or female?

21 A Female.

22 Q Would you say her first name?

23 A Shannon.

24 Q How old is she?

25 A About ten.

26 Q All right. Have you ever discussed her with an
27 inmate Frederick Clark?

28 A No. (Shaking head.)

1 Q Do you know Frederick Clark?

2 A No.

3 Q A black inmate?

4 A No.

5 Q Have you ever had any discussions at all with
6 Frederick Clark?

7 A No, I -- (Shaking head) -- don't even believe I've
8 ever even seen that guy.

9 Q Okay. Have you ever discussed your family with the
10 defendant Rascal?

11 A Yes.

12 Q Does he know that you have a daughter?

13 A Yes.

14 Q Does he know her name?

15 A Yes, everybody -- all the A.B.'s know I have a
16 daughter and they know my family and stuff.

17 Q Are you -- silly question, but are you in trouble
18 with the A.B. for testifying against them, last murder trial
19 of Mr. Littrell and right now?

20 A Yes, I am.

21 Q Is there a word -- is there a phrase that describes
22 what they do when -- when you get in trouble with them?

23 A Yeah, you're put on -- on the list or you're in the
24 hat.

25 Q In the hat?

26 A Which basically means you're up for murder.

27 Q As a victim?

28 A As a victim, exactly.

1 Q Okay. If you were in protective custody where they
2 couldn't reach you, do you have an opinion from the years of
3 schooling that you've had with the Aryan Brotherhood as to
4 whether or not they might try to find a family member of
5 yours to retaliate against?

6 MR. CLANTON: Your Honor, I'm going to object. It's
7 speculation.

8 THE COURT: Overruled. You may answer.

9 THE WITNESS: Yes.

10 MR. CLANTON: Three fifty-two.

11 THE WITNESS: Yes, I have knowledge of -- Aryan
12 Brotherhood, when they can't reach out and touch the guy
13 who's testifying or someone who's giving up information such
14 as myself, they have been known to go to the streets and
15 kill family members. Matter of fact, there are cases
16 that -- people are on death row for specifically for this
17 reason.

18 Q BY MR. FALLMAN: Do you know the names of the A.B.
19 members on death row for that reason?

20 A Yeah, Curtis Price, we call him Baby Curt. He's an
21 A.B. member. He killed Steve Barnes' family because the
22 A.B. couldn't reach Steve Barnes because he was a member of
23 the Aryan Brotherhood and he was going to -- he was
24 basically doing the same thing I'm doing.

25 Q Testifying?

26 A Sorry. Yes, testifying against the Aryan
27 Brotherhood.

28 Q From your schooling procedure in the Aryan

1 Brotherhood, in addition to knowing who raised their hands
2 for you, do you know who raised their hand, if anyone, for
3 the defendant Rascal?

4 A I know his primary sponsor, yes.

5 Q Okay, so you know one out of the two?

6 A Yeah.

7 Q Who's the one you know?

8 A John Stinson.

9 Q Now, was Mr. Stinson one of those six people on the
10 high council?

11 A Yeah, John's got a lot of power politically, very
12 influential character, yes.

13 Q Okay. Do you happen to know whether the defendant
14 Mr. Grizzle got in the Aryan Brotherhood at the same time as
15 anyone else? Do they have like a big -- once in awhile a
16 big procedure where a bunch of people are initiated at the
17 same time?

18 A No.

19 Q Or is it more separate?

20 MR. CLANTON: I'm going to object. Compound, your
21 Honor.

22 THE COURT: Rephrase the question.

23 Q BY MR. FALLMAN: (Nodding.) Do you happen to know
24 whether he was initiated with anyone else?

25 A Yes, I do.

26 Q And tell us what you know about that.

27 A He got in at the same time as another member named
28 Joey Hayes, which he used to refer to as his twin for that

1 specific reason because they both got their rock at the same
2 time.

3 Q Their shamrock?

4 A Yeah, their shamrock, their membership.

5 Q Okay, and do you happen to know whether Mr. Hayes
6 ever got in the hat with the high council?

7 A Yes, he's in trouble right now. He'll be killed if
8 they ever get the opportunity to kill him.

9 Q And why is Mr. Hayes in the hat right now?

10 A Because he moved in with another member named Gavin
11 Shine which they call Irish. He went in there under the
12 orders to kill Irish. And was not supposed to leave the
13 cell until Irish was dead. Well, he left. And when he left
14 and then he's in the hat.

15 Q Do you know whether Mr. Marsh, Aaron Marsh was in the
16 hat before he died?

17 A Yes, he was.

18 Q Why was Aaron Marsh in the hat?

19 A Because he was supposed to kill Irish as well and he
20 didn't do it.

21 Q So if I understood that, both Joey Hayes, who's
22 alive, is in the hat for not killing Irish, and Marsh is
23 dead for not killing Irish; is that right?

24 A Exactly. But they haven't had a chance to get Joey,
25 and if they ever do get the chance Joey will be killed.
26 That's another thing that I didn't agree with which is a
27 reason why I'm here. Me and Joey go back to when we were
28 kids together. So --

1 Q (Nodding.)

2 A I kind of like Joey. I mean, he -- probably don't
3 like me now but I didn't agree with that murder, neither.
4 Well, that conspiracy to kill him.

5 Q Is Irish Gavin Shine still alive?

6 A Yes, he is. He's single-celled. He'll probably be
7 alive until he dies or something because he'll never have
8 another celly, I'm sure.

9 Q Okay, so where -- where is Irish Gavin Shine right
10 now?

11 A He's in Pelican Bay security housing unit unless he's
12 out to court or something I don't know about.

13 Q Okay. Did you ever -- did you play any role, not
14 only in the death, strangling your own cellmate of Ruffo,
15 but a role in the strangulation death of the victim here in
16 that picture, Aaron Marsh?

17 A Yes, I did.

18 Q Okay, and did you do that on your own or did you do
19 that because of Aryan Brotherhood?

20 A Aryan Brotherhood business.

21 Q Okay. Tell us the business that you got involved in
22 and what your role was in that business. Of killing Aaron
23 Marsh.

24 A My role in that was over there at the prison in the
25 SHU they have a thing called legal correspondence program.
26 This program allows inmates to -- to correspond through the
27 law library. You can submit like six pages of written
28 questions and legal discussion to another inmate somewhere

1 in the prison. It goes to the law library then goes to the
2 other inmate.

3 At that time I was writing Rick and -- Rick
4 Terflinger and John Stinson. We had devised a code and we
5 was sending the code -- he sent the code to me, Rick
6 Terflinger did, and basically the code said Aaron Marsh had
7 to go because he didn't take care of business with the --
8 Irish.

9 Q Okay. And --

10 A That was to me.

11 Q What -- okay. He sent that message to you in code?

12 A Yes, he did.

13 Q And what -- once you received that message, what, if
14 anything, did you do?

15 A Well, being a member in the Aryan Brotherhood it was
16 my duty to make sure all brothers knew. And see, you got to
17 keep in mind at that time I was going to the law library all
18 the time. I was going to legal visiting all the time and I
19 was going to court all the time because I had my murder case
20 so I was seeing a lot of brothers. I was calling them out
21 so when I would see them I would discuss other brothers that
22 was in the hat and gang business. At that time.

23 Q (Nodding.) Okay.

24 A So that's what I did. I was passing the word along
25 to other brothers that I received word from Rick to -- Aaron
26 Marsh had to go.

27 Q When -- after you received the code from Rick
28 Terflinger that Aaron Marsh was in the hat for not killing

1 Irish, whom, if anyone, did you relay the message to to go
2 ahead and do the hit to?

3 A One of the brothers that I discussed it with was
4 Rascal.

5 Q All right. And where did you relay that message to
6 Rascal?

7 A Right here in the courthouse.

8 Q Okay. What date, the best you can -- I don't know,
9 you may not know the date.

10 A I don't.

11 Q When would the date have been?

12 A The date I don't know. It was sometime around March.

13 Q Okay.

14 A But I don't know a date.

15 (Mr. Fallman conferring briefly with the clerk.)

16 MR. FALLMAN: Would -- would counsel stipulate that
17 on March 13th, 1997 that Elliott Grizzle and Brian Healy
18 were both in this courthouse on that date in the afternoon
19 for separate legal purposes?

20 MR. CLANTON: I so stipulate and also stipulate, I
21 believe would be -- that People's Exhibit 49 would be
22 excluded.

23 (Counsel conferring briefly.)

24 MR. CLANTON: That's it.

25 THE COURT: Well -- do you want -- the stipulation,
26 are we ready with that?

27 MR. CLANTON: Yes, the stipulation, your Honor, we're
28 prepared to stipulate that Mr. Grizzle was in fact in the

1 courthouse on the same day in March, I believe March 13th,
2 1997 when Mr. Healy was also in court.

3 MR. FALLMAN: So stipulate.

4 THE COURT: All right, so that's a fact that is
5 agreed by both sides so you should regard that as being
6 conclusively proved without further proof on that point that
7 they were both in the courthouse on that day.

8 MR. FALLMAN: Thank you, your Honor.

9 THE COURT: Proceed.

10 Q BY MR. FALLMAN: Mr. Healy, on the 13th of March of
11 '97 -- let me make sure it was '97. Yes. Did your paths
12 cross somewhere in this courthouse with the defendant?

13 A Yes.

14 Q Where?

15 A I don't know the cell numbers in the back back there.
16 There's like -- I think they got four cells. I was in the
17 one closest to the office and he was like kitty-corner from
18 there.

19 Q Okay. And how were you able to relay the message to
20 kill Marsh from Mr. Griffin -- I'm sorry, from Mr. -- was it
21 Terflinger or Griffin?

22 A Terflinger.

23 Q From Terflinger, how were you able to relay that
24 message to the defendant?

25 A Well, in these cells back there they got huge windows
26 that cover the whole cell. And -- most A.B. members know
27 the sign language. The manual alphabet, and I
28 communicated -- the hit through sign language.

1 Q All right. Did you ever have any discussions of both
2 Marsh and Joey Hayes with the defendant on other occasions?

3 A Yeah.

4 Q Okay, when and where?

5 A Well, there was a lot of times. With Joey. There
6 was quite a few times. With Aaron Marsh, after the murder I
7 talked to him.

8 Q Okay. After the murder approximately when and
9 where -- well, where -- but when is my question, when would
10 it have been after. How much time after the murder?

11 A It was pretty -- pretty recent because the murder had
12 just taken place and we was both on visiting and he had told
13 me it had just taken place.

14 Q Okay. So where were you when you say that "we were
15 both in visiting"?

16 A We was in personal visiting out in Pelican Bay SHU.

17 Q Okay, is the personal visiting area the same place as
18 the attorney visiting area?

19 A No, it's a different --

20 Q Okay.

21 A It's in the same room but there's two different
22 wings. You have the wing on the left which is solid doors,
23 they're closed and that's legal visiting, and you have the
24 doors on the right which is a long bank of cells, small
25 cells and the doors are open -- not open. It's just --
26 there's perforated steel on the front of the cells.

27 Q Would you tell us how you guys, the two of you, you
28 and Rascal, got to be in the same visiting area, personal

1 visiting area that day?

2 A Well, just by chance. I had just concluded my visit
3 with -- my personal visit and -- he was just coming out.
4 They put him in the cell kitty-corner from me.

5 Q Okay, are you -- how -- if you're able, how are you
6 able to communicate with somebody in those visiting area
7 cells?

8 A Well, like I said, it's perforated steel so there's
9 no front on the cell. It's just like the door's perforated,
10 the little wall's perforated and you can see right through
11 it.

12 Q Okay.

13 A And he was just like one cell over right across from
14 me and we just -- he was all the way in the back so we could
15 talk.

16 Q Who talked first?

17 A I seen him go by because, like I said, my visit had
18 just concluded so I seen him go by and once the officers
19 took the handcuffs off and left.

20 Q What'd you say?

21 A I said, "Hey, Rascal." He said, "Who's that?" I
22 said, "Deadeye."

23 Q What happened next?

24 A He says, "Hey, check that out." He comes up there to
25 the bars on the cell on the door and he goes, "That was
26 taken care of." And I go, "What was?" And -- because at
27 first I thought he was talking about Irish. And he went,
28 "Aaron." And I go, "Who did it, you?" He goes, "No, it was

1 Gary." I said, "How?" And he put his hands up like a
2 strangling motion like -- with a rope or something.

3 Q All right, he didn't say the word "rope"?

4 A No, no, he just went like this. (Witness
5 indicating.) I said, "How?" And he went like that like
6 with his hands, crossing them over.

7 Q Okay. And --

8 A "Gary."

9 Q "Gary"?

10 A I was happy. I said, "Get on, brother."

11 Q So you learned that Marsh had actually been killed
12 from the defendant?

13 A Yes.

14 Q And this was how long after the -- the death of
15 Marsh?

16 A I'd say probably not -- no longer than a week.

17 Q All right.

18 A It was pretty soon, though. Got to keep in mind this
19 was two years ago. I mean, there's been a lot of stuff
20 happen between now and then and I don't focus on all this
21 stuff no more.

22 Q Okay. What, if anything, did he say about his
23 relationship with -- with Joey Hayes once Joey Hayes got in
24 the hat?

25 A At that time?

26 Q Yes.

27 A He didn't say nothing.

28 Q Okay, at what point in time did he talk about his

1 relationship with Joey Hayes in the hat? .

2 A Oh, that was at another time. We were in the law
3 library or here. I think I was in one cage here and he was
4 in another one out here at the courthouse in the back and we
5 were talking about Joey and about him coming out of his cell
6 from Irish and -- he said he'd had a personal interest in it
7 because their brother let him down because they were twins,
8 they got their rock at the same time, and he wanted to
9 handle it.

10 Q He wanted to take care of --

11 A He wanted to take care of Joey.

12 Q Okay. When you relayed the message from Mr.
13 Terflinger that Marsh had to be killed, did -- did the
14 defendant respond to you in any way? Do you recall?

15 A When I conveyed the message to him?

16 Q Right.

17 A Yeah, he said he would -- take care of it.

18 Q All right.

19 A If he got the opportunity.

20 Q Do you happen to know who he was celled with, if
21 anyone, at that point in time?

22 A No, I don't know. I don't think he was celled with
23 anybody. Matter of fact, I know he wasn't. At that time he
24 was trying to move in with someone.

25 Q Who was he trying to move in with?

26 MR. CLANTON: I'm going to object. Speculation, lack
27 of foundation, your Honor.

28 THE COURT: Overruled. You may answer.

1 THE WITNESS: He was trying to move in with somebody
2 named D.J. or R.J. because that was another discussion that
3 we'd had and -- subsequent to the murder he sent a message
4 back.

5 MR. CLANTON: I'm going to object, your Honor.
6 Nonresponsive.

7 THE COURT: Overruled.

8 THE WITNESS: Because he sent a message back with me
9 to send to Rick and John to let Rick and John know that he
10 wasn't able to fulfill his end of the hit because him and
11 Gary Littrell wanted to make a double-up shot. Gary was
12 going to kill Marsh and then he was supposed to kill this
13 cat named D.J. who -- he's not an A.B. member, he's just a
14 white dude that some people don't like.

15 Q Did you get that message back to the Council?

16 A I believe I did, yes. (Nodding.)

17 Q If -- if a person is not an A.B. -- A.B. member, what
18 are the rules, if any, from the A.B. about whether -- if you
19 are a member, do you have to go get the Council's permission
20 to kill them or can you just kill them?

21 A One member on another?

22 Q One member on a nonmember.

23 A No, you wouldn't need to get no light on -- if you're
24 an A.B. member and you got a problem with anybody other than
25 a brother, you can -- you can have somebody else kill them
26 or you can kill them. There's no problem with that.

27 Q What about if the person that you got a problem with,
28 you're a member and they're a member? What's the normal

1 procedure on that?

2 A Well, it's not good practice to campaign against
3 people because that gets you whacked. The only way a
4 brother's going to be killed by another brother would be is
5 if the Council sanctioned that murder. There is no other
6 way that that's going to take place.

7 Q When you say "whacked," as a former A.B., what does
8 the word "whacked" mean to you?

9 A Killed, stabbed. Hit, moved on.

10 Q Primarily the first word, "killed"?

11 A Yeah. Well, I mean, if you can. You know, not every
12 hit's successful. You got a lot of hits aren't successful.
13 When I say "successful," you know, you're judged by if you
14 murder him. If you didn't murder him it wasn't successful.

15 Q Did -- Bobby Ray Shield testify for you or -- or at
16 least was he supposed to testify in your murder trial?

17 A Yeah.

18 Q Do you know whether he's a member of the Aryan
19 Brotherhood?

20 A Yes, Bobby Ray's a member of the Aryan Brotherhood.

21 Q Was Mr. Grizzle supposed to testify for you in your
22 trial?

23 A I think he was a percipient witness on some other
24 matters but he never testified.

25 Q Okay. Did he actually come to court and testify in
26 front of the judge even though not in front of the jury in
27 your trial?

28 A No, I don't think so.

1 Q All right. What, if any, duty does an Aryan
2 Brotherhood member have to have from your training and
3 experience with respect to coming to court for other members
4 of the Aryan Brotherhood?

5 A Oh, you lie. You -- you're obligated to perjure
6 yourself as long as you can corroborate evidence of the case
7 pending before the Court.

8 Q Okay. Is -- speaking of that, did you take the stand
9 in your own trial, murder trial of Mr. Ruffo?

10 A Yes, I did.

11 Q Did you perjure yourself there?

12 A Yes, I did.

13 Q How long did you spend as an associate before you
14 actually became a member?

15 MR. CLANTON: Asked and answered, your Honor.

16 THE COURT: Overruled.

17 THE WITNESS: From '84 to '86 I was involved -- '85
18 because I got to prison in '84. I got to Folsom in '85.
19 That's when I started getting involved with them dudes and
20 from then -- from the first of '85 to '86 I was involved
21 with them then, like I told you, I backed up a little bit
22 then in '88 I pressed on again. So from -- '88 really to
23 '93.

24 Q And you were a member how long before you dropped
25 out?

26 A About five or six years.

27 Q Okay.

28 A Four years, five years.

1 Q Does the word "brand" mean anything to the Aryan
2 Brotherhood?

3 A Brand, yeah.

4 Q What does it mean?

5 A It means you're branded like, you know, like you
6 brand a cow. You know, you're marked. You're a member.

7 Q Are there inmates, types of inmates that you would --
8 I know you said that you guys are white supremacists, or I
9 believe you said that. Is that a fair statement?

10 A Yeah, that's a fair statement.

11 Q Are there other types of inmates that A.B.'s are
12 taught in their training to attack normally just -- for
13 certain reasons of the gang -- I'm talking about people that
14 are not members of the A.B. such as a certain -- certain
15 kinds of inmates.

16 A I don't understand the question.

17 Q Okay, are there certain kinds of inmates that are out
18 on the yard that are fair game because of what they're
19 convicted of?

20 A Oh, yeah.

21 MR. CLANTON: I would object to relevance to these
22 proceedings.

23 THE COURT: Overruled. You may answer.

24 THE WITNESS: Yes, there is.

25 Q BY MR. FALLMAN: And what are they?

26 A Snitches, child molesters, rapists.

27 MR. FALLMAN: Just about through, your Honor.

28 Q How does the Aryan Brotherhood get the victim, the

1 fellow member to cell up with someone when the guy's in the
2 hat? I guess I'm asking, do -- there's no way the guy knows
3 he's in the hat? Is that --

4 A Well, no. I mean, you have suspicions if you're in
5 the hat. I imagine -- but that's basically a showing of
6 your courage and your heart. If a brother asked you, "Look,
7 hey, go check this out. I want you to move in with me," and
8 he told you, "No, I don't want to live with you," there'd be
9 some question there. "Why don't you want to live with me?
10 You got some question you're hiding from?"

11 So usually if a brother asks another brother, "You
12 want to live with me," they'll usually agree to do it. But
13 it's all deception. You know, you got to love him and hug
14 him and -- while you're doing that you kill him. That's
15 basically what it comes down to.

16 Q Approximately how much time -- how old are you?

17 A Thirty-three.

18 Q And --

19 A I'll be 34 in April.

20 Q Approximately how many more years do you have left in
21 prison?

22 A I don't even know. I got a lot. Over fifty years.

23 Q Who was the judge that tried your case where the jury
24 found you guilty of manslaughter?

25 A Petersen.

26 Q Did you ask Judge Petersen to drop your third strike
27 even though you'd been found guilty of it?

28 A Yeah, I asked if he would set the strikes aside and

1 exercise discretion.

2 Q Did he do that?

3 A Yes, he did.

4 Q But you still have another fifty years that you're --
5 scheduled to be in prison?

6 A Yes. I have fifty years that I still need to do. So
7 you'll know, I don't know my exact date. Because I haven't
8 been to committee or nothing. I haven't seen no one.

9 Q Now, you said that Terflinger passed the message that
10 Marsh needed to be killed to you, I believe.

11 A Yes.

12 Q Who passed the message to you from the Council that
13 Ruffo needed to be killed before you killed Ruffo?

14 A Terflinger. Was sent through Steve Oliveras through
15 the legal correspondence program.

16 Q Were you ever interviewed by Mr. Jack Kuhns from --
17 former highway patrolman and a private investigator here in
18 town?

19 A That's Littrell's old investigator?

20 Q I'm not sure.

21 A I believe it is. If that's him, I think so, yeah.

22 Q Did he volunteer any information to you of any sort
23 or -- how did the interview go?

24 A No, he's not allowed to volunteer no information to
25 me. He was an investigator. He can't tell me facts of the
26 case. All he does is come up and ask me questions.

27 Q Is that what happened during the interview?

28 A Which one? Me and him had two.

1 Q Oh, okay.

2 A If it's the one I'm thinking of, we had two
3 interviews.

4 Q Probably the last interview, I suspect.

5 A The last interview? Yeah, because I told him a
6 couple things he needed to know. He surely didn't give me
7 no information, though.

8 Q Have you ever known the A.B. to pay money to
9 witnesses to get them to perjure themselves?

10 A Yes, I do. They've done that. Matter of fact, Ruffo
11 done it before, got busted for it. Down in -- it was in the
12 mid-eighties he was on a charge of attempted murder. Where
13 he had attempted to kill some black dude on the yard and --
14 some other black dude was going to be a witness in that case
15 so Ruffo went to him at that time, they was getting a
16 lawsuit that was going to be settled, and he had told the
17 black dude, "Testify for me, to say that that dude was
18 coming at me and that I never had the weapon, and" -- "and
19 we'd give you some money for it," and then the dude
20 furnished over State's evidence on Ruffo regarding that.

21 Q (Nodding.)

22 A So that's their -- they got a history of doing that.

23 MR. FALLMAN: No further questions.

24 THE COURT: We'll recess for ten minutes. Remember
25 the admonition. Ten minutes.

26 (A brief recess was taken.
27 The following proceedings
28 were then held outside the
presence of the jury.)

1 THE COURT: All right, we are in session out of the
2 presence of the jury. We do have both attorneys and the
3 defendant present.

4 And Mr. Clanton, you had indicated you wanted to put
5 something on the record before we proceed?

6 MR. CLANTON: Yes, your Honor. I did -- as this
7 Court well knows, made a lengthy record during a bench
8 conference on at least two occasions with regard to the
9 testimony of Mr. Healy and pattern of questions undertaken
10 by Mr. Fallman. However, the last portion of Mr. Healy's
11 testimony dealing with a lengthy relation of a story
12 regarding Mr. Price, et al., I want to make sure that I
13 object very clearly on the record to that.

14 There's absolutely no discovery given to me by Mr.
15 Fallman in regards to any of these types of questions or any
16 of the responses by Mr. Healy in any of these areas. And I
17 think it relates to my earlier objections about being --
18 having discovery withheld from the defense for over a year
19 and a half now in all of these areas Mr. Fallman knows
20 exists. He's exploiting it here with this witness ad
21 nauseam. It has put us in a position of dealing with a
22 large volume of prejudicial material that we are unable to
23 combat in any way, shape or form because we have been kept
24 from the very discovery that he is extolling here before
25 this court and I just want to make sure that the record is
26 very clear that we vigorously oppose the entire pattern of
27 questioning, and especially the last third. It was just an
28 attempt to take advantage of the fact that we do not have

1 the discovery in which this witness relates volumes of
2 information that would have been relevant to us here at this
3 trial as is apparently by the testimony of this individual
4 here.

5 We tried to inform the Court and also the other --
6 other courts that we expected to be in this position at some
7 point during the course of the proceedings. We in fact were
8 put in this position in this proceeding and all of our
9 complaints fell on deaf ears, and I just wanted to make sure
10 that the record's complete with regard to our opposition and
11 objection to that entire process.

12 MR. FALLMAN: Your Honor, I have an answer to that.
13 Number one, we didn't know that Mr. Kenneth Clark was gonna
14 come forward and -- and say that he perjured himself in the
15 last trial of Gary Littrell. He did. And at that point
16 once we knew that the M.O. of the Aryan Brotherhood was to
17 intimidate or -- or to try to get to children on the outside
18 when they can't get to the witness, then I asked this
19 person, "From inside knowledge and expertise, Mr. Healy, of
20 the Aryan Brotherhood," whether -- whether there is a track
21 record corroborating Mr. Clark that they could in fact or
22 would in fact from their prior M.O. try to go after some
23 innocent victim who's a relative of -- of a witness that
24 they can't get to. And -- and he talked about the Price
25 case. But counsel well knows that People versus Price is at
26 Volume I Cal.App 4th, and I don't remember the page, and he
27 practices law in Humboldt County and he said that his
28 partner used to be the defense attorney on People versus

1 Price in chambers so he knows the facts of People versus
2 Price. This is a tempest in a teapot and it's not right.

3 MR. CLANTON: Well, my point is that it is in fact
4 very right because this individual, we've had no indication
5 that he would be testifying in that particular area. We've
6 had no discovery given to us other than a brief snippet of
7 oral information given by Mr. Fallman prior to Mr. Healy's
8 entire testimony that he in fact had a daughter. We've not
9 been given that information.

10 Ninety percent of what Mr. Healy testified to here
11 today we were not ever given the information on. He did not
12 testify in that manner at the Littrell trial to a lot of
13 these areas. I've read that -- that transcript on numerous
14 occasions and the content of his testimony today is part of
15 a debriefing session that we have never been able to see or
16 hear. And I just want to make sure, and I think I've done
17 that and I'll stop at this point. I think I've made any
18 objection clear.

19 THE COURT: All right, the objection is noted for the
20 record then.

21 So we're ready to cross-examine?

22 MR. CLANTON: Yes, your Honor.

23 THE COURT: All right, return the jury to the
24 courtroom, please.

25 (The jury was then returned
26 to the courtroom. The
27 following proceedings were
28 held in the presence of the
 jury.)

28 THE COURT: All right, the jury has returned. Mr.

1 Clanton?

2 MR. CLANTON: Thank you, your Honor.

3 CROSS-EXAMINATION

4 Q BY MR. CLANTON: Good morning, Mr. Healy.

5 A Good morning.

6 Q Mr. Healy, you testified on direct that the people
7 you knew in the Aryan Brotherhood were rotting away in the
8 SHU, correct?

9 A Yes.

10 Q And I would assume that when you say "rotting away,"
11 that doesn't sound like a very pleasant kind of existence;
12 would that be correct?

13 A No, it's not a nice existence, correct.

14 Q In fact, it's miserable; isn't it?

15 A Yes, it is.

16 Q And isn't it true, Mr. Healy, that prior to March
17 or -- actually November of '97, you were rotting away --

18 A Yeah.

19 Q -- in the SHU?

20 A Yes, I was.

21 Q Having a miserable existence?

22 A Yes, I was.

23 Q Okay. But I note today you got civilian clothing on.
24 Correct?

25 A Yes, I do.

26 Q That certainly doesn't look like a SHU smock to me.

27 A No, it's not.

28 Q Is that --

1 A But I'm still in the SHU.

2 Q In fact, your circumstances have changed
3 dramatically; haven't they?

4 A My location's changed dramatically.

5 Q You're not at the SHU at Pelican Bay State Prison;
6 are you?

7 A No, but I'm still housing in SHU.

8 Q The question is you're not at Pelican Bay security
9 housing unit; are you?

10 A No, I'm not.

11 Q Okay, thank you. And Mr. Healy, you testified to
12 this jury that in March of '97 you were able to communicate
13 with Mr. Grizzle in the holding cells here at the Del Norte
14 County Jail; is that correct?

15 A That's correct.

16 Q And you said that you transmitted a message to Mr.
17 Grizzle; isn't that correct?

18 A That's correct.

19 Q And that that message was that "I got word from Rick
20 Terflinger that Aaron has to go, has to be taken care of,
21 needs to be killed." Is that correct?

22 A Yeah.

23 Q And you testified that Mr. Grizzle responded to you.
24 Correct?

25 A Yes.

26 Q And he responded to you that he agreed to do it and
27 he'd take care of it. That's what you said, correct?

28 A Right, if he got the opportunity, yes.

1 Q Okay. Well, Mr. -- Mr. Healy, when you're in that
2 cell back there during that particular period of time, you
3 were shackled; weren't you?

4 A On my waist, yeah.

5 Q And you were shackled -- your hands were shackled to
6 your waist.

7 A Yeah, right here like this.

8 Q Okay. And we -- Mr. Grizzle likewise was shackled to
9 your -- recollection, correct?

10 A Yes, he was.

11 Q Okay. And Mr. Healy, you testified as well to this
12 jury that that conversation, let's call it that, that you
13 had with Mr. Grizzle was done by sign language.

14 A Yes, it was.

15 Q You want to show this jury that message? I want you
16 to --

17 A Can I stand up?

18 Q I want you to sign to this jury, Mr. Healy. Stand
19 up.

20 THE COURT: Yes, stand up.

21 Q BY MR. CLANTON: And I want you to tell this jury
22 that "look, I got word from Rick that Aaron has to be taken
23 care of, needs to be killed."

24 A Okay. Well, the windows come about waist level right
25 here so being shackled is not gonna stop you from doing it.
26 What --

27 Q Mr. Healy, I would like you to --

28 THE COURT: Wait a minute. He can explain his

1 answer. Go ahead, Mr. Healy.

2 THE WITNESS: When -- me and Rascal was across the
3 way, over there, we just used like letters. This would be
4 an "R" so he knows that "R" means Rick so I told him, "Hey,
5 I heard from" -- (Witness indicating.)

6 MR. CLANTON: Your Honor, if I may, I would like him
7 to sign this message, not communicate --

8 THE COURT: Well --

9 MR. CLANTON: -- it orally.

10 THE COURT: He can explain what he's doing as he does
11 it. Go ahead.

12 MR. CLANTON: If I may, your Honor. One minute,
13 please.

14 THE COURT: The jury knows what's words and what's
15 signs. They can tell.

16 MR. CLANTON: I understand, your Honor. I have a
17 small objection. I would simply like Mr. Healy first to
18 sign this silently then sign it again and then he can
19 explain it.

20 THE COURT: All right, that's reasonable. Go ahead.

21 THE WITNESS: All right, now what do you want me to
22 tell them? Just what I said?

23 Q BY MR. CLANTON: I want you to sign like you did
24 silently without telling anything to this jury, that very
25 message.

26 A Okay. (Witness indicating.)

27 Q Okay. And you want to sign Mr. Grizzle's response?
28 As -- as you indicated he agrees to do it, would make sure

1 it's taken care of.

2 A He didn't do that in sign language. He just went,
3 "Yeah, that's cool. I'll do it, look into it." See, this
4 whole conversation wasn't done --

5 Q But --

6 THE COURT: Wait a minute, give him a chance to
7 explain his answer. Go ahead.

8 THE WITNESS: This entire conversation wasn't done in
9 sign language, just the critical points were done in sign
10 language. I could sit here and say something to someone who
11 understands sign language and you'll only catch if I missed
12 the easy words. Like "he also said," all you know is "he
13 also said," then I could say the critical stuff in hand --
14 in sign language, you're not going to know what I'm talking
15 about. That's how it does -- no one sits there and does the
16 whole thing in sign language.

17 Q BY MR. CLANTON: Well, isn't that what you told a
18 jury at Mr. Littrell's trial?

19 A Well, it was in sign language, yes, but it's the
20 critical points, not the entire whole -- we didn't spend the
21 entire day back there talking in sign language.

22 Q Mr. Healy, did you tell the Littrell trial, the
23 jurors in the Littrell trial --

24 A Uh-huh.

25 Q -- that that entire conversation was in sign
26 language?

27 A Yes.

28 Q And that's all you said; wasn't it?

1 A Yes.

2 Q Okay. Please have a seat. Mr. Healy, this alleged
3 conversation by sign language was taken place -- took place
4 in March by your testimony; isn't that true?

5 A Yes.

6 Q March '97?

7 A Yes.

8 Q Okay. And your testimony is that you had a second
9 conversation with Mr. Grizzle; isn't that correct?

10 A What day you talking about? I've had numerous
11 conversations with Grizzle.

12 Q Okay. After Mr. Marsh had been killed.

13 A Uh-huh.

14 Q Do you recall whether you had a conversation with Mr.
15 Grizzle on July 26th, 1997?

16 A I don't know if it was July 26th but I had a
17 conversation with him subsequent to the murder, yes.

18 Q Well, I'm going to show you something, if I may
19 approach. A copy of People's -- People's --

20 (Counsel conferring briefly.)

21 (Mr. Clanton conferring briefly with the clerk.)

22 Q BY MR. CLANTON: Well -- I'll have the -- that
23 exhibit but I'd like you to look at this, Mr. Healy, if I
24 may at this point.

25 A See what you got here.

26 Q Does that look familiar to you? You've looked at a
27 number of logs; have you not? Prison logs?

28 A Yeah.